UNITED NATIONS **E**

Economic and Social Council

Distr.
GENERAL

E/CN.4/Sub.2/2002/28
18 July 2002

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on the Promotion
and Protection of Human Rights
Fifty-fourth session
Item 6 of the provisional agenda

OTHER HUMAN RIGHTS ISSUES

Systematic rape, sexual slavery and slavery-like practices during armed conflicts

Report of the High Commissioner for Human Rights*

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* In accordance with General Assembly resolution 53/208 B, paragraph 8, this document is submitted late so as to include the most up-to-date information possible.

GE.02-14290 (E) 260702

Introduction

1. At its fifty-first session, the Sub-Commission, in its resolution 1999/16, called upon the High Commissioner for Human Rights to submit a report to the Sub-Commission at its fifty-second session on the issue of systematic rape, sexual slavery and slavery-like practices in situations of ongoing conflict, including information on the status of the recommendations made by the Special Rapporteur of the Sub-Commission. The Special Rapporteur on systematic rape, sexual slavery and slavery-like practices during armed conflict was also requested to submit an updated report to the Sub-Commission at its fifty-second session.

2 In compliance with those requests, the Special Rapporteur submitted her updated and final reports (E/CN.4/Sub.2/2000/21) and the High Commissioner submitted her report (E/CN.4/Sub.2/2000/20), which was based on the most recent activities of treaty monitoring bodies, special rapporteurs and the Commission on Human Rights and provided information on specific conflict situations available from those sources.

3. At its fifty-third session, the Sub-Commission, in its resolution 2001/20, called upon the High Commissioner for Human Rights to monitor the implementation of that resolution as well as resolution 1999/16 and to submit a report to the Sub-Commission at its fifty-fourth session on the issue of systematic rape, sexual slavery and slavery-like practices in situations of armed conflict, including information on the status and implementation of the recommendations made by the Special Rapporteur in her report on systematic rape, sexual slavery and slavery-like practices during armed conflicts (E/CN.4/Sub.2/1998/13) and the update thereto (E/CN 4/Sub.2/2000/21).

4 The present report is submitted in accordance with that request and updates the information contained in the High Commissioner's previous reports The present report therefore refers to new developments in the field of the activities of human rights mechanisms and of international and humanitarian law on the issue of systematic rape, sexual slavery and slavery-like practices in situations of armed conflict.

5. As mentioned in the previous reports, during past, recent and ongoing conflicts, sexual violence has been used as a weapon of war; a method of threatening populations and not exclusively women. Conflicts are increasingly affecting civil populations and systematic rape is often being used to humiliate civilians and military personnel, to destroy the society and diminish prospects for a peaceful resolution of the conflict. The first victims of these crimes are women and girls. Perpetrators and those who encourage them are particularly aware that the solidity of any social structure, especially during armed conflicts, would depend on the possibility for women to maintain the family structure. Therefore, it would appear that attacking and assaulting women would result in attacking and harming the structure of the family and of the society as a whole.

6. Gender-based violence is also a consequence of the lower status of women and girls in society. Women and girls are subordinated, devalued and discriminated against, to varying degrees, in all societies.

7 Armed conflicts exacerbate discrimination and violence directed at women and most of past and recent internal and ethnic-based conflicts have illustrated this fact. Rape and other sexual violence against women and girls are used as a weapon of war. To end the cycle of violence, the equal rights of women to participate in the economic, social, political and cultural life of their societies must be promoted and protected. Without the full equality and participation of women, the empowerment of women, the rehabilitation of women's image, allowing women to develop confidence and respect for themselves and enabling them to realize their full potential and acknowledging the full value of the contribution they make to the well-being, security and progress of society, any measure taken to prevent the systematic rape of women during armed conflicts, in fact any form of gender-based violence, will fail.

8. Conflicts have been the scene of brutal attacks against civil populations, especially women and children All kinds of sexual violence, including assault, rape, abuse and torture of women and children, have been used in a more or less systematic manner to terrorize civilians and destroy the social structure, family structure and pride of the enemy. Because of its nature, the consequences of sexual violence extend well beyond those of other forms of violence The severe physical and psychological trauma to which victims are subject endanger not only personal recovery but post-conflict reconstruction of the whole society. It is essential that the international community carefully address this serious and systematic violation of the most basic human rights and consider measures aimed at preventing such practices and assisting the victims.

I. STEPS TAKEN BY HUMAN RIGHTS TREATY BODIES

Human Rights Committee

9. As mentioned in the previous report, the Human Rights Committee had adopted, in 2000, a comprehensive new general comment (No. 28) on gender equality (CCPR/C/21/Rev.1/Add.1), in which it stated that gender equality is an overarching principle that applies to the enjoyment of all rights, civil, political, economic, social and cultural. The right to gender equality is not merely a right to non-discrimination; affirmative action is required. In that regard, and bearing in mind that women are particularly vulnerable in times of internal or international armed conflicts, States must take special measures to protect women from rape, abduction or other forms of gender-based violence and should inform the Committee of those measures.

10. In July 2001, the Committee on Human Rights adopted general comment No. 29 on states of emergencies (CCPR/C/21/Rev.1/Add 11). It spells out the Committee's understanding of the scope of application of article 4 of the International Covenant on Civil and Political Rights and represents an authoritative interpretative guideline on the complex issue of derogations, which has long been recognized as a key issue regarding the protection of fundamental rights in internal crisis situations. While general comment No. 29 does not specifically address the protection of women against gender-based abuse during such situations, for example during internal armed conflict, it contains references to the need for respect for the general principle of non-discrimination in a state of emergency, and gender-based abuse against women could be subsumed under this In such situations, reliance on general comment No. 29 can also justifiably be complemented by taking into account the contents of general comment No 28 on gender equality

11. The Committee observed that measures derogating from the Covenant should comply with requirements set out in the Covenant itself. One fundamental requirement is that those measures be limited to the extent strictly required by the exigencies of the situation. Among the various requirements, the Committee states that even during armed conflict, measures derogating from the Covenant "are allowed only if and to the extent that the situation constitutes a threat to the life of the nation" (para. 3). Paragraph 1 of article 4 of the ICCPR requires that measures derogating from the Covenant do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin. The Committee noted that even though article 26 or other Covenant provisions related to non-discrimination have not been listed among the non-derogable provisions of article 4, paragraph 2, "there are elements or dimensions of the right to non-discrimination that cannot be derogated from in any circumstances" (para. 8).

12. The Committee has also shed some light on the relationship between the non-derogable rights in the Covenant and peremptory norms of international law. Although it distinguished the issues of non-derogability from the peremptory nature of some norms, the Committee recognized also that "[T]he proclamation of certain provisions of the Covenant as being of a non-derogable nature ... is to be seen partly as a recognition of the peremptory nature of some fundamental rights ensured in treaty form in the Covenant" (para. 11). Moreover, "States parties may in no circumstances invoke article 4 of the Covenant as justification for acting in violation of humanitarian law or peremptory norms of international law ..." (para. 11). Furthermore, in assessing the scope of legitimate derogation from the Covenant, the Committee has found an important criterion in the definition of certain human rights violations as crimes against humanity. "If action conducted under the authority of a State constitutes a basis for individual criminal responsibility for a crime against humanity by the persons involved in that action, article 4 of the Covenant cannot be used as a justification that a state of emergency exempted the State in question from its responsibility in relation to the same conduct" (para. 12).

13. Some of the provisions of humanitarian law instruments and their recent interpretation include sexual slavery and indecent assault against women as grave breaches of humanitarian law. Moreover, the Rome Statute of the International Criminal Court specifically recognizes that sexual violence and sexual slavery committed in the context of either an internal or an international armed conflict may constitute crimes against humanity, war crimes and genocide falling within the jurisdiction of the Court. In the same vein, the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda have acknowledged in their judgements that rape and sexual enslavement constitute crimes against humanity and the crime of genocide. All these elements would allow all manifestations of gender-based violence to be dealt with in an appropriate manner.

Committee on the Elimination of Discrimination against Women

14. In considering the report of the Russian Federation the Committee expressed its concern at the fact that despite strong evidence that members of the Russian forces have committed acts of rape or other sexual violence against women in the context of the armed conflict in Chechnya, the Government has failed to conduct the necessary investigations or hold anyone accountable in the vast majority of cases (see CEDAW/C/2002/CRP.3/Add.3 of 28 January 2002).

15. The Committee was alarmed by the high incidence of rape and other forms of violence targeted at women of ethnic minorities in Sri Lanka, in particular Tamil women, by the police and security forces in the conflict areas. While acknowledging the establishment of the inter-ministerial working group to counter these acts of violence, the Committee was concerned that victims in remote areas might be unaware of their rights and of how to seek redress (see CEDAW/C/2002/I/CRP.3/Add.5 of 30 January 2002).

Committee against Torture

16. When examining the report of the Russian Federation, the Committee noted that checks carried out by the Office of the Procurator General have revealed that, in the first six months of 2000, among the 16 recorded crimes against civilians in Chechen territory, one was identified as a case of rape (see CAT/C/34/Add.15 of 15 October 2001).

Committee on the Elimination of Racial Discrimination

17. In the context of the political and ethnic conflicts which involve the Isabatu Freedom Movement and the Malaita Eagle Force in the Solomon Islands, the Committee was informed by a number of intergovernmental and non-governmental organizations of cases of internal displacement, hostage-taking, killing, torture, rape, looting and the burning of village homes. The Committee expressed its concern at such information and was hopeful that the elections held in December 2001 would lead to sustainable peace and security (see CERD/C/60/CO/12 of 20 March 2002).

II. STEPS TAKEN BY HUMAN RIGHTS MECHANISMS AND PROCEDURES

18. In examining the reports submitted in recent years by some of the special rapporteurs, both country and thematic, common concerns and conclusions emerge. It is notable that gender-based violence is more frequently mentioned than before among human rights violations. Reports recount cases of women being targeted in various types of conflict, using various forms of violence; women are raped, sexually abused, beaten, tortured and killed. Rape is being used more frequently as a tactic of war. Various special rapporteurs have mentioned the particular vulnerability of women widowed by war.

19. This section provides an overview of the most recent information on gender-based violence examined by special rapporteurs, or the High Commissioner for Human Rights, in the ongoing or recent conflicts in Sierra Leone, Burundi and Uganda, which have been the subject of attention on the part of the mechanisms. The exclusive reference to these three countries does not imply that gender-based violence only prevails there but reflects the information provided in the relevant reports.

20. When reporting on her visit to Sierra Leone (21-29 August 2001) (E/CN.4/2002/83/Add.2), the Special Rapporteur on violence against women noted that as civilians, the women and girls of Sierra Leone have been subjected to human rights abuses and grave breaches of international humanitarian law. As women, they have been subjected to gender-specific abuses, including rape, sexual slavery and forced marriages to members of the various factions. Systematic and widespread rape and other sexual violence has been a hallmark

of the conflict in Sierra Leone. Sexual violence has been directed against women of all ages, including very young girls. Thousands of cases have been reported, including individual and gang rape, sexual assault with objects and sexual slavery. She regretted that these gender-specific violations in particular had received little attention from the international community. She noted that such human rights abuses had been committed by all parties to the armed conflict.

21. The Special Rapporteur called on all parties to take measures to protect women and girls from rape and other forms of sexual violence, including instructing all the warring factions to respect international humanitarian law. She called on them to state publicly that rape in the conduct of armed conflict constitutes a war crime and may constitute a crime against humanity under defined circumstances, and that anyone who commits rape will be brought to justice. She also called on them to investigate all reports of rape and other forms of sexual violence and to prosecute those alleged to have committed such crimes. Furthermore, she urged all parties to release immediately all girls, women and other civilians who remain held against their will, and to ensure that no further abductions take place.

22. The Special Rapporteur noted that the failure to investigate, prosecute and punish those responsible for rape and other forms of gender-based violence had contributed to an environment of impunity that perpetuates violence against women in Sierra Leone, including rape and domestic violence. The Special Rapporteur expressed her concern about the criminal justice system in relation to women, and the reported low level of convictions for rape and other forms of gender-based violence. She urged the Government to intensify its efforts to combat violence against women through comprehensive measures, including gender-sensitive training in the criminal justice system. She recalled that the Rome Statute of the International Criminal Court makes explicit that rape and other gender-based violence are among the most serious crimes of concern to the international community by specifically defining them as constituent acts of crimes against humanity and war crimes.

23. In her report, the Special Rapporteur also stated that, in accordance with Security Council resolution 1325 (2000) of 31 October 2000, women and women's groups should be fully involved in the peace process and special efforts should be made to ensure that women's needs and interests are included in the political negotiations. She stressed that the wartime experiences and post-conflict needs of women and girls must be fully taken into account in the formulation of repatriation and resettlement plans, as well as during the demobilization and disarmament process. The necessary conditions must be provided to enable those women and girls who were forced to become the sexual partners of members of the rebel forces (so-called "bush wives") to leave demobilized combatants, if they wish to Financing and humanitarian organizations also should recognize the special needs of the dependants of combatants, or camp followers, and not only of the combatants themselves. Rehabilitation programmes must take into account the wide extent of sexual assault and rape and formulate programmes to address the specific needs of survivors. Programmes must also be developed for the special needs of female ex-combatants. Moreover, special initiatives must be developed to ensure that the security and subsistence concerns of war widows and other female heads of household are adequately addressed.

24 The Special Rapporteur also highlighted her concern about the appalling conditions in the camps for internally displaced persons (IDPs). The Special Rapporteur urged all parties to abide

by and ensure enforcement of the Guiding Principles on Internal Displacement. She stated that the Government must adopt effective measures to guarantee that the particular security concerns of women and children displaced by the conflict are met, including measures against rape and other gender-based violence. The Special Rapporteur urged the Government and the international community to take immediate action to ensure that IDPs have access to basic services, particularly in regard to food, shelter, health, education and protection.

25. The Special Rapporteur made various recommendations aiming at appropriately dealing with the issue of gender-based violence as reported in Sierra Leone.

26. The Special Rapporteur on the human rights situation in Burundi reproduced in her report (E/CN.4/2002/49) information on complaints and cases of rape. Besides State agents, many civilians were implicated in those cases of rape. Victims were very often minors.

27. In 2001, the father of a girl in the fourth form at primary school in Musigati reportedly complained against a member of the military from the Musigati military base who, after having raped his daughter, gave her 3,000 Burundian francs so that she would not tell anyone. The complaint seemed to have been filed after the little girl was found to be in a distressing state. No further action would appear to have been taken on the matter. The Special Rapporteur also referred to a 2001 Human Rights Watch report on the *gardiens de la paix*, entitled "*Protéger le peuple: programme gouvernemental d'autodéfense en Burundi*". In that report, Human Rights Watch cited one *gardien de la paix* (State agent-policeman) as stating that many of his colleagues had committed acts of rape either when on surveillance duty or during rest periods in the regroupment camps, at the time when they existed. Some *gardiens* and soldiers thus reportedly raped women intercepted on roads while they were going to fetch water outside the sites.

28. During her visit to the Lukole refugee camp in the United Republic of Tanzania, the Special Rapporteur noted that one of the human rights violations reported by camp residents was the frequent rape of young girls, in particular when they went out to fetch wood. The centre for providing assistance to victims of sexual violence set up by the Office of the United Nations High Commissioner for Refugees (UNHCR) was said to be catering for an average of five rape victims per month. This centre, which is an interesting initiative, also helps victims of domestic violence and arranges for legal aid. Some cases of rape are also attributable to the armed groups that reportedly commit such acts when abducting members of the population, especially young persons. Most of these cases are said to go unpunished because they are not reported. It should be said that Burundian society is very discreet about sexual intercourse, even when involving violence, and that a girl who admits to having been raped is likely to be ostracized.

29. In the High Commissioner's report (E/CN.4/2002/86) on the mission undertaken by her Office pursuant to Commission on Human Rights resolution 2000/60 to assess the situation on the ground with regard to the abduction of children from northern Uganda, information was provided on what was presented as the greatest tragedy of the conflict. Indeed, the strategic use of children by the Lord's Resistance Army (LRA) has led to situations where children are taken from homes, schools and communities, and from refugee settlements and camps for the displaced, to be trained as fighters, forced into slave labour or serve as wives for commanders. On the latter, the mission noted that if the treatment of children in general was terrible, the

situation of young girls was even worse. Most girls were raped and given to LRA soldiers and commanders as wives. It was estimated that 200 girls were living in the LRA camps in southern Sudan with their small children who were born in the camps. The leader of the movement is said to have about 60 such wives, including the reportedly 19 surviving "Aboke girls", a group of 30 girls abducted in 1996 from St. Mary's School in Aboke, Lira district.

30. The report also referred to the situation in the "protected" camps, which were created beginning in 1996 by the Government as a "temporary" security measure. It was noted that more than half of the people in the camp had no access to safe water and that the pumps of the too-few boreholes meant to provide water for thousands of people broke down constantly. Women and girls in the camps regularly spent several hours each day trying to collect water for drinking, cooking and washing. Those who walked to the boreholes early in the morning or late at night - when the queues are shorter - were at risk of abduction and sexual assault. Owing to the lack of effective legal and military protection mechanisms, women and children, particularly orphans and unaccompanied children, were reported to be at risk of being sexually abused, including raped, in the camps by residents, by Ugandan People's Defence Force (UPDF) soldiers and by the LRA. The mission was advised that there were many situations in which young women form a sexual relationship with a soldier or camp leader in order to have better access to food and to security. The very harsh living conditions have also led to a high incidence of prostitution. The mission received other reports implicating UPDF soldiers in the commission of sexual attacks against the female population in the protected villages.

31. When reviewing national and international measures aimed at improving the situation, the report considered the Amnesty Act which provided a legal framework for enforcing the amnesty for children and for extending it to adult fighters. As such, both the Amnesty Act and the Ugandan Amnesty Commission represented a singularly important initiative aimed at achieving a negotiated settlement with the LRA and facilitating the return of the abducted children. The Act, which was adopted by the Government of Uganda on 21 January 2000, provided amnesty for anyone who had engaged in armed rebellion against the Government since 1986 and who renounced and abandoned such rebellion and surrendered his or her arms. Those concerned could not thereafter be prosecuted or subjected to any form of punishment for any crime committed in the course of the war or armed rebellion

32. In that regard, it is important to note that the report stated that the issuing of a blanket amnesty, particularly where war crimes and crimes against humanity had been committed, promoted a culture of impunity and was not in conformity with international standards and practice. In that connection, it was noted that the practices of the LRA, including murder, enslavement, torture, rape and sexual slavery, were not only grave human rights violations but might also be considered war crimes In conformity with the relevant international legal norms, the leadership of the LRA must be held accountable for those crimes. However, it should be noted that the vast majority of LRA fighters are or were child soldiers and are therefore unlikely to be prosecuted for any crimes they may have committed after they were abducted.

33. It can be inferred from the reports of the Special Rapporteur of the Sub-Commission on the rights to non-citizens (E/CN.4/Sub 2/2001/20; E/CN 4/Sub.2/2002/25/Add.1), which reviewed the jurisprudence of treaty monitoring bodies, that the respective committees are informed about cases of sexual exploitation of foreign women and girls. Even though not systematic, this exploitation is perpetuated because of the vulnerability of women as women and as foreigners.

34. In addition to the information provided in the reports of the Special Rapporteur, it is worth mentioning the report of the Secretary-General on traffic in women and girls (E/CN.4/2002/80), which noted the increased vulnerability of women to economic and sexual exploitation, including trafficking, as they migrate from rural to urban areas and from their country to another.

III. STEPS TAKEN BY THE COMMISSION ON HUMAN RIGHTS

35. At its fifty-eighth session, the Commission on Human Rights referred to the issue in its resolutions on the rights of the child (2002/92) and violence against women (2002/52). In resolution 2002/52, the Commission condemned violence against women committed in situations of armed conflict, such as murder, rape, sexual slavery and forced pregnancy, and called for effective responses to these violations of international human rights and humanitarian law. The Commission also welcomed the inclusion of gender-related crimes in the Rome Statute of the International Criminal Court and the draft Elements of Crimes, which affirm that rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization and other forms of sexual violence constitute, in defined circumstances, a crime against humanity and/or a war crime. The Statute also acknowledges that acts of sexual violence in situations of armed conflict can constitute serious violations or grave breaches of international humanitarian law.

36. Also during its fifty-eighth session, the Commission voiced particular concern regarding violations of women's rights in specific countries, including Sierra Leone, Afghanistan, Myanmar and Uganda.

IV. THE INTERNATIONAL CRIMINAL COURT, THE INTERNATIONAL CRIMINAL TRIBUNALS AND INTERNATIONAL HUMANITARIAN LAW

37 On 1 July 2002, the Rome Statute of the International Criminal Court entered into force. The inclusion in the ICC statute of special provisions on rape, sexual assault and gender-related crimes, reflecting the recommendations made by the Office of the High Commissioner for Human Rights, is a major advance. The future judgements of the Court would be a key element in moving forward the jurisprudence regarding gender-based violence in the context of international law.

38. The report of the Secretary-General to the Commission on Human Rights at its fifty-eighth session on fundamental standards of humanity (E/CN.4/2002/103), recalled the 2001 report with regard to genocide. The Statute of the International Criminal Tribunal for

the Former Yugoslavia (ICTY), the Statute of the International Criminal Tribunal for Rwanda (ICTR) and the Rome Statute of the International Criminal Court all restate the definition of genocide found in the Convention on the Prevention and Punishment of the Crime of Genocide of 1948. The crime of genocide has, however, been interpreted and developed in recent case law. ICTR gave the first judicial interpretation of the Genocide Convention in the *Prosecutor v Akayesu* case, case No. ICTR-96-4-T (see E/CN.4/Sub 2/2001/29). The Trial Chamber adopted a broad interpretation of genocide, including rape and sexual violence when committed with the intent to destroy, in whole or in part, a specific group.

39. The jurisprudence of the ICTY and the ICTR continues to contribute to the development of international humanitarian law and international criminal law, which in turn contribute to the process of identifying and/or clarifving fundamental standards of humanity applicable to everyone and in all circumstances This has been achieved in particular through the developments related to the scope of individual criminal responsibility and the definition of crimes within the jurisdiction of the two ad hoc International Criminal Tribunals. The most recent developments should be considered in the light of the ICTY decision of 2 September 1998 in *Prosecutor v Akayesu* (para. 688), in which the Trial Chamber stated: "The Tribunal defines rape as a physical invasion of a sexual nature, committed on a person under circumstances which are coercive. The Tribunal considers sexual violence, which includes rape, as any act of a sexual nature which is committed on a person under circumstances which are coercive. Sexual violence is not limited to physical invasion of the human body and may include acts which do not involve penetration or even physical contact."

40. It should also be mentioned that the ICTY, in the *Foca* trial, acknowledged that rape and sexual enslavement are crimes against humanity (cases Nos. IT-96-23 and IT-96-23/1 of 22 February 2001). Three men prosecuted were found guilty of rape, classified as a crime against humanity and a war crime

41 With regard to the definition of crimes against humanity (ICTY Statute, art. 5), in *Prosecutor v. Kunarac et al* , cases Nos. IT-96-23-T and IT-96-23/1-T, judgement of 22 February 2001, the ICTY has clarified the elements of the crime of rape within the meaning of articles 3 and 5 of its Statute. In principle, the Trial Chamber agreed with the definition given by the Trial Chamber in the *Furundzija* case, but considered it necessary to clarify its understanding of the second element of the definition. In the *Furundzija* case the Trial Chamber stated that the act of sexual penetration would constitute rape only if accompanied "by coercion or force or threat of force against the victim or a third person". The Trial Chamber in the *Kunarac* case considered that such definition is "in one respect more narrowly stated than is required by international law" in that it does not refer to other factors which would render an act of sexual penetration non-consensual or non-voluntary. In the *Kunarac* case the Trial Chamber adopted a broader view and defined the *actus reus* of the crime of rape in international law as sexual penetration that "occurs without the consent of the victim". The Trial Chamber stressed that "consent for this purpose must be given voluntarily, as a result of the victim's free will, assessed in the context of the surrounding circumstances".

42 The Trial Chamber also defined for the first time in the *Kunarac* case the crime of enslavement as a crime against humanity under article 5 of the ICTY Statute, but made it clear that its definition in the instant case was not intended to be exhaustive as it related only to the charges concerning the treatment of women and children and allegations of forced or compulsory labour or service. The Trial Chamber considered various sources, including international humanitarian law and human rights law, and adopted a definition of enslavement as an offence under customary international law. It found that "the *actus reus* of the violation is the exercise of any or all of the powers attaching to the right of ownership over a person. The *mens rea* of the violation consists in the intentional exercise of such powers".

43. Common article 3 to the four Geneva Conventions prohibits all parties to a conflict from perpetrating "outrages upon personal dignity, in particular humiliating and degrading treatment" Common article 3 has over time been interpreted to include sexual slavery (see preliminary report of Ms Linda Chavez, Special Rapporteur on systematic rape, sexual slavery and slavery-like practices during periods of armed conflict (E/CN.4/Sub.2/1996/26)). Article 147 of the Fourth Geneva Convention, which deals with "grave breaches", includes "torture or inhuman treatment … wilfully causing great suffering or serious injury to body or health". Additional Protocols I and II contain prohibitions against any form of indecent assault, especially against women and children

V. CONCLUSIONS

44. The use of sexual slavery in any form during times of armed conflict - rape camps, "comfort stations", or other forms of sexual abuse - constitutes a grave breach of international human rights and humanitarian law. Armed conflict, including occupation of territories, tends to result in increased sexual violence, in particular against women. Specific protective and punitive measures are required.

45 In adopting general comment No. 29, the Human Rights Committee has issued an authoritative interpretation of article 4 of ICCPR, clarifying the necessity of respecting the principle of non-discrimination in a state of emergency, including on the basis of gender. Any derogations from the provisions of the Covenant by States parties in internal crisis situations would be subject to scrutiny by the Committee under stringent conditions to ensure that the conditions for lawful derogation are fulfilled. The implementation of this general comment in conjunction with general comment No. 28 on gender equality could result in better protection of women and girls against threats and violence, including sexual violence and sexual assault, in crisis situations.

46. The latest verdicts of the ICTY, acknowledging that rape and, more recently, that sexual enslavement are crimes against humanity, consolidate previous verdicts and are a significant step in the protection of women's human rights, as they challenge widespread acceptance that torture, rape and violence against women are an intrinsic part of war and conflict and hold the perpetrators of such crimes accountable.

47. Conventional and extra-conventional human rights mechanisms should continue and strengthen their consideration of all gender-based violations of human rights. In order to assist human rights mechanisms in this task, the international community should be encouraged to provide systematically all relevant information on the issue. To end impunity for acts of sexual violence and sexual slavery during armed conflict, political will and concerted action on the part of the international community, Governments and non-governmental actors is required.

48. While international and humanitarian law are applicable to perpetrators of sexual violence and slavery, the specifically gender-related nature and consequences of these crimes require that their gender aspect be taken into account in all legal and extralegal responses, including prevention, investigation, prosecution, compensation and rehabilitation.